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S.B. No. 660

A BILL TO BE ENTITLED

AN ACT

relating to the review and functions of the Texas Water Development Board, including the functions of the board and related entities in connection with the process for establishing and appealing desired future conditions in a groundwater management area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SECTION 6.013, Water Code, is amended to read as follows:

Sec. 6.013. SUNSET PROVISION. The Texas Water Development Board is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2023 [~~2011~~] and every 12th year after 2023 [~~2011~~] are reviewed.

SECTION 2. Subchapter D, Chapter 6, Water Code, is amended by adding Sections 6.113, 6.114, and 6.115 to read as follows:

Sec. 6.113. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's

1 jurisdiction.

2 (b) The board's procedures relating to alternative dispute  
3 resolution must conform, to the extent possible, to any model  
4 guidelines issued by the State Office of Administrative Hearings  
5 for the use of alternative dispute resolution by state agencies.

6 (c) The board shall:

7 (1) coordinate the implementation of the policy  
8 adopted under Subsection (a);

9 (2) provide training as needed to implement the  
10 procedures for negotiated rulemaking or alternative dispute  
11 resolution; and

12 (3) collect data concerning the effectiveness of those  
13 procedures.

14 Sec. 6.114. FINANCIAL ASSISTANCE PROGRAMS: DEFAULT,  
15 REMEDIES, AND ENFORCEMENT. (a) In this section:

16 (1) "Default" means:

17 (A) default in payment of the principal of or  
18 interest on bonds, securities, or other obligations purchased or  
19 acquired by the board;

20 (B) failure to perform any covenant related to a  
21 bond, security, or other obligation purchased or acquired by the  
22 board;

23 (C) a failure to perform any of the terms of a  
24 loan, grant, or other financing agreement; or

25 (D) any other failure to perform an obligation,  
26 breach of a term of an agreement, or default as provided by any  
27 proceeding or agreement evidencing an obligation or agreement of a

1 recipient, beneficiary, or guarantor of financial assistance  
2 provided by the board.

3 (2) "Financial assistance program recipient" means a  
4 recipient or beneficiary of funds administered by the board under  
5 this code, including a borrower, grantee, guarantor, or other  
6 beneficiary.

7 (b) In the event of a default and on request by the board,  
8 the attorney general shall seek:

9 (1) a writ of mandamus to compel a financial  
10 assistance program recipient or the financial assistance program  
11 recipient's officers, agents, and employees to cure the default;  
12 and

13 (2) any other legal or equitable remedy the board and  
14 the attorney general consider necessary and appropriate.

15 (c) A proceeding authorized by this section shall be brought  
16 and venue is in a district court in Travis County.

17 (d) In a proceeding under this section, the attorney general  
18 may recover reasonable attorney's fees, investigative costs, and  
19 court costs incurred on behalf of the state in the proceeding in the  
20 same manner as provided by general law for a private litigant.

21 Sec. 6.115. RECEIVERSHIP. (a) In this section, "financial  
22 assistance program recipient" has the meaning assigned by Section  
23 6.114.

24 (b) In addition to the remedies available under Section  
25 6.114, at the request of the board, the attorney general shall bring  
26 suit in a district court in Travis County for the appointment of a  
27 receiver to collect the assets and carry on the business of a

1 financial assistance program recipient if:

2 (1) the action is necessary to cure a default by the  
3 recipient; and

4 (2) the recipient is not:

5 (A) a municipality or county; or

6 (B) a district or authority created under Section  
7 52, Article III, or Section 59, Article XVI, Texas Constitution.

8 (c) The court shall vest a receiver appointed by the court  
9 with any power or duty the court finds necessary to cure the  
10 default, including the power or duty to:

11 (1) perform audits;

12 (2) raise wholesale or retail water or sewer rates or  
13 other fees;

14 (3) fund reserve accounts;

15 (4) make payments of the principal of or interest on  
16 bonds, securities, or other obligations purchased or acquired by  
17 the board; and

18 (5) take any other action necessary to prevent or to  
19 remedy the default.

20 (d) The receiver shall execute a bond in an amount to be set  
21 by the court to ensure the proper performance of the receiver's  
22 duties.

23 (e) After appointment and execution of bond, the receiver  
24 shall take possession of the books, records, accounts, and assets  
25 of the financial assistance program recipient specified by the  
26 court. Until discharged by the court, the receiver shall perform  
27 the duties that the court directs and shall strictly observe the

1 final order involved.

2 (f) On a showing of good cause by the financial assistance  
3 program recipient, the court may dissolve the receivership.

4 SECTION 3. Section 6.154, Water Code, is amended to read as  
5 follows:

6 Sec. 6.154. COMPLAINT FILE. (a) The board shall maintain  
7 a system to promptly and efficiently act on complaints [~~file on each~~  
8 ~~written complaint~~] filed with the board. The board shall maintain  
9 information about parties to the complaint, [~~file must include:~~

- 10 ~~[(1) the name of the person who filed the complaint;~~  
11 ~~[(2) the date the complaint is received by the board;~~  
12 ~~[(3)] the subject matter of the complaint, [+~~  
13 ~~[(4) the name of each person contacted in relation to~~  
14 ~~the complaint;~~  
15 ~~[(5)] a summary of the results of the review or~~  
16 ~~investigation of the complaint, and the complaint's disposition[+~~  
17 ~~and~~  
18 ~~[(6) an explanation of the reason the file was closed,~~  
19 ~~if the agency closed the file without taking action other than to~~  
20 ~~investigate the complaint].~~

21 (b) The board shall make information available describing  
22 its [~~provide to the person filing the complaint and to each person~~  
23 ~~who is a subject of the complaint a copy of the board's policies~~  
24 ~~and] procedures for [~~relating to~~] complaint investigation and  
25 resolution.~~

26 SECTION 4. Section 6.155, Water Code, is amended to read as  
27 follows:

1           Sec. 6.155. NOTICE OF COMPLAINT. The board~~[, at least~~  
2 ~~quarterly until final disposition of the complaint,~~] shall  
3 periodically notify the ~~[person filing the]~~ complaint parties ~~[and~~  
4 ~~each person who is a subject of the complaint]~~ of the status of the  
5 complaint until final disposition ~~[investigation unless the notice~~  
6 ~~would jeopardize an undercover investigation].~~

7           SECTION 5. Section 11.1271, Water Code, is amended by  
8 amending Subsection (f) and adding Subsection (g) to read as  
9 follows:

10           (f) The commission shall adopt rules:  
11                 (1) establishing criteria and deadlines for  
12 submission of water conservation plans, including any required  
13 amendments, and for submission of implementation reports; and  
14                 (2) requiring the uniform water use calculation system  
15 developed under Section 16.403 to be used in the water conservation  
16 plans required by this section.

17           (g) At a minimum, rules adopted under Subsection (f)(2) must  
18 require an entity to report the most detailed level of municipal  
19 water use data currently available to the entity. The commission  
20 may not adopt a rule that requires an entity to report municipal  
21 water use data that is more detailed than the entity's billing  
22 system is capable of producing.

23           SECTION 6. Section 16.021, Water Code, is amended by  
24 amending Subsections (c), (d), and (e) and adding Subsections (d-1)  
25 and (g) to read as follows:

26           (c) The executive administrator shall designate the  
27 director of the Texas Natural Resources Information System to serve

1 as the state geographic information officer. The state geographic  
2 information officer shall:

3 (1) coordinate the acquisition and use of  
4 high-priority imagery and data sets;

5 (2) establish, support, and disseminate authoritative  
6 statewide geographic data sets;

7 (3) support geographic data needs of emergency  
8 management responders during emergencies;

9 (4) monitor trends in geographic information  
10 technology; and

11 (5) support public access to state geographic data and  
12 resources [~~The Texas Geographic Information Council (TGIC) is~~  
13 ~~created to provide strategic planning and coordination in the~~  
14 ~~acquisition and use of geo-spatial data and related technologies in~~  
15 ~~the State of Texas. The executive administrator and the executive~~  
16 ~~director of the Department of Information Resources shall designate~~  
17 ~~entities to be members of the TGIC. The chief administrative~~  
18 ~~officer of each member entity shall select one representative to~~  
19 ~~serve on the TGIC. The duties of the TGIC shall include providing~~  
20 ~~guidance to the executive administrator in carrying out the~~  
21 ~~executive administrator's duties under this section and guidance to~~  
22 ~~the Department of Information Resources for development of rules~~  
23 ~~related to statewide geo-spatial data and technology standards].~~

24 (d) Not later than December 1, 2016, and before the end of  
25 each successive five-year period after that date, the board shall  
26 submit to the governor, lieutenant governor, and speaker of the  
27 house of representatives a report that contains recommendations

1 regarding:

2 (1) statewide geographic data acquisition needs and  
3 priorities, including updates on progress in maintaining the  
4 statewide digital base maps described by Subsection (e)(6);

5 (2) policy initiatives to address the acquisition,  
6 use, storage, and sharing of geographic data across the state;

7 (3) funding needs to acquire data, implement  
8 technologies, or pursue statewide policy initiatives related to  
9 geographic data; and

10 (4) opportunities for new initiatives to improve the  
11 efficiency, effectiveness, or accessibility of state government  
12 operations through the use of geographic data [~~Member entities of~~  
13 ~~the TGIC that are state agencies shall, and member entities that are~~  
14 ~~not state agencies may, provide information to the TGIC about their~~  
15 ~~investments in geographic information and plans for its use. Not~~  
16 ~~later than November 1 of each even-numbered year, the TGIC shall~~  
17 ~~prepare and provide to the board, the Department of Information~~  
18 ~~Resources, the governor, and the legislature a report that:~~

19 [~~(1) describes the progress made by each TGIC member~~  
20 ~~entity toward achieving geographic information system goals and in~~  
21 ~~implementing geographic information systems initiatives; and~~

22 [~~(2) recommends additional initiatives to improve the~~  
23 ~~state's geographic information systems programs].~~

24 (d-1) The board shall consult with stakeholders in  
25 preparing the report required by Subsection (d).

26 (e) The [~~Under the guidance of the TGIC, the~~] executive  
27 administrator shall:

1           (1) further develop the Texas Natural Resources  
2 Information System by promoting and providing for effective  
3 acquisition, archiving, documentation, indexing, and dissemination  
4 of natural resource and related digital and nondigital data and  
5 information;

6           (2) obtain information in response to disagreements  
7 regarding names and name spellings for natural and cultural  
8 features in the state and provide this information to the Board on  
9 Geographic Names of the United States Department of the Interior;

10           (3) make recommendations to the Board on Geographic  
11 Names of the United States Department of the Interior for naming any  
12 natural or cultural feature subject to the limitations provided by  
13 Subsection (f);

14           (4) make recommendations to the Department of  
15 Information Resources to adopt and promote standards that  
16 facilitate sharing of digital natural resource data and related  
17 socioeconomic data among federal, state, and local governments and  
18 other interested parties;

19           (5) acquire and disseminate natural resource and  
20 related socioeconomic data describing the Texas-Mexico border  
21 region; and

22           (6) coordinate, conduct, and facilitate the  
23 development, maintenance, and use of mutually compatible statewide  
24 digital base maps depicting natural resources and man-made  
25 features.

26           (g) The board may establish one or more advisory committees  
27 to assist the board or the executive administrator in implementing

1 this section, including by providing information in connection with  
2 the preparation of the report required by Subsection (d). In  
3 appointing members to an advisory committee, the board shall  
4 consider including representatives of:

5 (1) state agencies that are major users of geographic  
6 data;

7 (2) federal agencies;

8 (3) local governments; and

9 (4) the Department of Information Resources.

10 SECTION 7. Subsection (b), Section 16.023, Water Code, is  
11 amended to read as follows:

12 (b) The account may be appropriated only to the board to:

13 (1) develop, administer, and implement the strategic  
14 mapping program;

15 (2) provide grants to political subdivisions for  
16 projects related to the development, use, and dissemination of  
17 digital, geospatial information; and

18 (3) administer, implement, and operate other programs  
19 of the Texas Natural Resources Information System, including:

20 (A) the operation of a Texas-Mexico border region  
21 information center for the purpose of implementing Section  
22 16.021(e)(5);

23 (B) the acquisition, storage, and distribution  
24 of historical maps, photographs, and paper map products;

25 (C) the maintenance and enhancement of  
26 information technology; and

27 (D) the production, storage, and distribution of

1 other digital base maps, as determined by the executive  
2 administrator [~~or a state agency that is a member of the Texas~~  
3 ~~Geographic Information Council~~].

4 SECTION 8. Section 16.051, Water Code, is amended by adding  
5 Subsections (a-1) and (a-2) to read as follows:

6 (a-1) The state water plan must include:

7 (1) an evaluation of the state's progress in meeting  
8 future water needs, including an evaluation of the extent to which  
9 water management strategies and projects implemented after the  
10 adoption of the preceding state water plan have affected that  
11 progress; and

12 (2) an analysis of the number of projects included in  
13 the preceding state water plan that received financial assistance  
14 from the board.

15 (a-2) To assist the board in evaluating the state's progress  
16 in meeting future water needs, the board may obtain implementation  
17 data from the regional water planning groups.

18 SECTION 9. Subsections (c) and (e), Section 16.053, Water  
19 Code, are amended to read as follows:

20 (c) No later than 60 days after the designation of the  
21 regions under Subsection (b), the board shall designate  
22 representatives within each regional water planning area to serve  
23 as the initial coordinating body for planning. The initial  
24 coordinating body may then designate additional representatives to  
25 serve on the regional water planning group. The initial  
26 coordinating body shall designate additional representatives if  
27 necessary to ensure adequate representation from the interests

1 comprising that region, including the public, counties,  
2 municipalities, industries, agricultural interests, environmental  
3 interests, small businesses, electric generating utilities, river  
4 authorities, water districts, and water utilities. The regional  
5 water planning group shall maintain adequate representation from  
6 those interests. In addition, the groundwater conservation  
7 districts located in each management area, as defined by Section  
8 36.001, located in the regional water planning area shall appoint  
9 one representative of a groundwater conservation district located  
10 in the management area and in the regional water planning area to  
11 serve on the regional water planning group. In addition,  
12 representatives of the board, the Parks and Wildlife Department,  
13 and the Department of Agriculture shall serve as ex officio members  
14 of each regional water planning group.

15 (e) Each regional water planning group shall submit to the  
16 development board a regional water plan that:

17 (1) is consistent with the guidance principles for the  
18 state water plan adopted by the development board under Section  
19 16.051(d);

20 (2) provides information based on data provided or  
21 approved by the development board in a format consistent with the  
22 guidelines provided by the development board under Subsection (d);

23 (2-a) is consistent with the desired future conditions  
24 adopted under Section 36.108 for the relevant aquifers located in  
25 the regional water planning area as of the date the board most  
26 recently adopted a state water plan under Section 16.051 or, at the  
27 option of the regional water planning group, established subsequent

1 to the adoption of the most recent plan;

2 (3) identifies:

3 (A) each source of water supply in the regional  
4 water planning area, including information supplied by the  
5 executive administrator on the amount of managed available  
6 groundwater in accordance with the guidelines provided by the  
7 development board under Subsections (d) and (f);

8 (B) factors specific to each source of water  
9 supply to be considered in determining whether to initiate a  
10 drought response;

11 (C) actions to be taken as part of the response;  
12 and

13 (D) existing major water infrastructure  
14 facilities that may be used for interconnections in the event of an  
15 emergency shortage of water;

16 (4) has specific provisions for water management  
17 strategies to be used during a drought of record;

18 (5) includes but is not limited to consideration of  
19 the following:

20 (A) any existing water or drought planning  
21 efforts addressing all or a portion of the region;

22 (B) approved groundwater conservation district  
23 management plans and other plans submitted under Section 16.054;

24 (C) all potentially feasible water management  
25 strategies, including but not limited to improved conservation,  
26 reuse, and management of existing water supplies, conjunctive use,  
27 acquisition of available existing water supplies, and development

1 of new water supplies;

2 (D) protection of existing water rights in the  
3 region;

4 (E) opportunities for and the benefits of  
5 developing regional water supply facilities or providing regional  
6 management of water supply facilities;

7 (F) appropriate provision for environmental  
8 water needs and for the effect of upstream development on the bays,  
9 estuaries, and arms of the Gulf of Mexico and the effect of plans on  
10 navigation;

11 (G) provisions in Section 11.085(k)(1) if  
12 interbasin transfers are contemplated;

13 (H) voluntary transfer of water within the region  
14 using, but not limited to, regional water banks, sales, leases,  
15 options, subordination agreements, and financing agreements; and

16 (I) emergency transfer of water under Section  
17 11.139, including information on the part of each permit, certified  
18 filing, or certificate of adjudication for nonmunicipal use in the  
19 region that may be transferred without causing unreasonable damage  
20 to the property of the nonmunicipal water rights holder;

21 (6) identifies river and stream segments of unique  
22 ecological value and sites of unique value for the construction of  
23 reservoirs that the regional water planning group recommends for  
24 protection under Section 16.051;

25 (7) assesses the impact of the plan on unique river and  
26 stream segments identified in Subdivision (6) if the regional water  
27 planning group or the legislature determines that a site of unique

1 ecological value exists; and

2 (8) describes the impact of proposed water projects on  
3 water quality.

4 SECTION 10. Section 16.402, Water Code, is amended by  
5 amending Subsection (e) and adding Subsection (f) to read as  
6 follows:

7 (e) The board and commission jointly shall adopt rules:

8 (1) identifying the minimum requirements and  
9 submission deadlines for the annual reports required by Subsection  
10 (b); ~~and~~

11 (2) requiring the uniform water use calculation system  
12 developed under Section 16.403 to be used in the reports required by  
13 Subsection (b); and

14 (3) providing for the enforcement of this section and  
15 rules adopted under this section.

16 (f) At a minimum, rules adopted under Subsection (e)(2) must  
17 require an entity to report the most detailed level of municipal  
18 water use data currently available to the entity. The board and  
19 commission may not adopt a rule that requires an entity to report  
20 municipal water use data that is more detailed than the entity's  
21 billing system is capable of producing.

22 SECTION 11. Subchapter K, Chapter 16, Water Code, is  
23 amended by adding Section 16.403 to read as follows:

24 Sec. 16.403. UNIFORM WATER USE CALCULATION SYSTEM. The  
25 board and the commission, in consultation with the Water  
26 Conservation Advisory Council, shall develop a uniform system for  
27 calculating municipal water use in gallons per capita per day to be

1 used by each entity required to submit a water conservation plan to  
2 the board or the commission under this code.

3 SECTION 12. Section 17.003, Water Code, is amended by  
4 adding Subsections (c), (d), (e), and (f) to read as follows:

5 (c) Water financial assistance bonds that have been  
6 authorized but have not been issued are not considered to be state  
7 debt payable from the general revenue fund for purposes of Section  
8 49-j, Article III, Texas Constitution, until the legislature makes  
9 an appropriation from the general revenue fund to the board to pay  
10 the debt service on the bonds.

11 (d) In requesting approval for the issuance of bonds under  
12 this chapter, the executive administrator shall certify to the bond  
13 review board whether the bonds are reasonably expected to be paid  
14 from:

15 (1) the general revenues of the state; or  
16 (2) revenue sources other than the general revenues of  
17 the state.

18 (e) The bond review board shall verify whether debt service  
19 on bonds to be issued by the board under this chapter is state debt  
20 payable from the general revenues of the state, in accordance with  
21 the findings made by the board in the resolution authorizing the  
22 issuance of the bonds and the certification provided by the  
23 executive administrator under Subsection (d).

24 (f) Bonds issued under this chapter that are designed to be  
25 paid from the general revenues of the state shall cease to be  
26 considered bonds payable from those revenues if:

27 (1) the bonds are backed by insurance or another form

1 of guarantee that ensures payment from a source other than the  
2 general revenues of the state; or

3 (2) the board demonstrates to the satisfaction of the  
4 bond review board that the bonds no longer require payment from the  
5 general revenues of the state and the bond review board so certifies  
6 to the Legislative Budget Board.

7 SECTION 13. Section 17.9022, Water Code, is amended to read  
8 as follows:

9 Sec. 17.9022. FINANCING OF GRANT OR LOAN FOR POLITICAL  
10 SUBDIVISION; DEFAULT; VENUE. [~~(a)~~] The board may make a loan or  
11 grant available to a political subdivision in any manner the board  
12 considers economically feasible, including purchase of bonds or  
13 securities of the political subdivision or execution of a loan or  
14 grant agreement with the political subdivision. The board may not  
15 purchase bonds or securities that have not been approved by the  
16 attorney general and registered by the comptroller.

17 [~~(b) In the event of a default in payment of the principal of~~  
18 ~~or interest on bonds or securities purchased by the board, or any~~  
19 ~~other default as defined in the proceedings or indentures~~  
20 ~~authorizing the issuance of bonds, or a default of any of the terms~~  
21 ~~of a loan agreement, the attorney general shall seek a writ of~~  
22 ~~mandamus or other legal remedy to compel the political subdivision~~  
23 ~~or its officers, agents, and employees to cure the default by~~  
24 ~~performing the duties they are legally obligated to perform. The~~  
25 ~~proceedings shall be brought and venue is in a district court in~~  
26 ~~Travis County. This subsection is cumulative of any other rights or~~  
27 ~~remedies to which the board may be entitled.]~~

1 SECTION 14. Section 36.001, Water Code, is amended by  
2 adding Subdivision (30) to read as follows:

3 (30) "Desired future condition" means a quantitative  
4 description, adopted in accordance with Section 36.108, of the  
5 desired condition of the groundwater resources in a management area  
6 at one or more specified future times.

7 SECTION 15. Section 36.063, Water Code, is amended to read  
8 as follows:

9 Sec. 36.063. NOTICE OF MEETINGS. (a) Except as provided  
10 by Subsections (b) and (c), notice [~~Notice~~] of meetings of the board  
11 shall be given as set forth in the Open Meetings Act, Chapter 551,  
12 Government Code. Neither failure to provide notice of a regular  
13 meeting nor an insubstantial defect in notice of any meeting shall  
14 affect the validity of any action taken at the meeting.

15 (b) At least 10 days before any meeting or hearing at which  
16 the board will consider or take public comments on the desired  
17 future condition for an aquifer, including a joint planning meeting  
18 under Section 36.108 attended by a district representative, the  
19 board must post notice that includes:

20 (1) the proposed desired future condition or  
21 conditions and a list of any other agenda items;

22 (2) the date, time, and location of the meeting or  
23 hearing;

24 (3) the name, telephone number, and address of the  
25 person to whom questions or requests for additional information may  
26 be submitted;

27 (4) the names of the other districts in the district's

1 management area; and

2 (5) information on how the public may submit comments.

3 (c) Notice of a meeting or hearing described by Subsection  
4 (b) must be posted:

5 (1) in the district office;

6 (2) in the county courthouse of each county located  
7 wholly or partly in the district;

8 (3) with the secretary of state; and

9 (4) on the district's Internet website, if the  
10 district has an Internet website.

11 (d) The Texas Water Development Board by rule may adopt  
12 additional notice provisions for a meeting described by Subsection  
13 (b) to ensure reasonable notice to and comment from affected  
14 stakeholders such as landowners, permit holders, local officials,  
15 and other members of the public.

16 SECTION 16. Subsections (a) and (e), Section 36.1071, Water  
17 Code, are amended to read as follows:

18 (a) Following notice and hearing, the district shall, in  
19 coordination with surface water management entities on a regional  
20 basis, develop a comprehensive management plan which addresses the  
21 following management goals, as applicable:

22 (1) providing the most efficient use of groundwater;

23 (2) controlling and preventing waste of groundwater;

24 (3) controlling and preventing subsidence;

25 (4) addressing conjunctive surface water management  
26 issues;

27 (5) addressing natural resource issues;

1 (6) addressing drought conditions;

2 (7) addressing conservation, recharge enhancement,  
3 rainwater harvesting, precipitation enhancement, or brush control,  
4 where appropriate and cost-effective; and

5 (8) addressing [~~in a quantitative manner~~] the desired  
6 future conditions adopted by the district under Section 36.108 [~~of~~  
7 ~~the groundwater resources~~].

8 (e) In the management plan described under Subsection (a),  
9 the district shall:

10 (1) identify the performance standards and management  
11 objectives under which the district will operate to achieve the  
12 management goals identified under Subsection (a);

13 (2) specify, in as much detail as possible, the  
14 actions, procedures, performance, and avoidance that are or may be  
15 necessary to effect the plan, including specifications and proposed  
16 rules;

17 (3) include estimates of the following:

18 (A) managed available groundwater in the  
19 district based on the desired future condition adopted by rule  
20 [~~established~~] under Section 36.108;

21 (B) the amount of groundwater being used within  
22 the district on an annual basis;

23 (C) the annual amount of recharge from  
24 precipitation, if any, to the groundwater resources within the  
25 district;

26 (D) for each aquifer, the annual volume of water  
27 that discharges from the aquifer to springs and any surface water

1 bodies, including lakes, streams, and rivers;

2 (E) the annual volume of flow into and out of the  
3 district within each aquifer and between aquifers in the district,  
4 if a groundwater availability model is available;

5 (F) the projected surface water supply in the  
6 district according to the most recently adopted state water plan;  
7 and

8 (G) the projected total demand for water in the  
9 district according to the most recently adopted state water plan;  
10 and

11 (4) consider the water supply needs and water  
12 management strategies included in the adopted state water plan.

13 SECTION 17. Subchapter D, Chapter 36, Water Code, is  
14 amended by amending Section 36.108 and adding Sections 36.1081,  
15 36.1082, 36.1083, 36.1084, and 36.1085 to read as follows:

16 Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) In  
17 this section:

18 (1) "Development [~~,"development]~~ board" means the  
19 Texas Water Development Board.

20 (2) "District representative" means the presiding  
21 officer or the presiding officer's designee for any district  
22 located wholly or partly in the management area.

23 (b) If two or more districts are located within the  
24 boundaries of the same management area, each district shall prepare  
25 a comprehensive management plan as required by Section 36.1071  
26 covering that district's respective territory. On completion and  
27 approval of the plan as required by Section 36.1072, each district

1 shall forward a copy of the new or revised management plan to the  
2 other districts in the management area. The boards of the districts  
3 shall consider the plans individually and shall compare them to  
4 other management plans then in force in the management area.

5 (c) The district representatives [~~presiding officer, or the~~  
6 ~~presiding officer's designee, of each district located in whole or~~  
7 ~~in part in the management area~~] shall meet at least annually to  
8 conduct joint planning with the other districts in the management  
9 area and to review the management plans, the [~~and~~] accomplishments  
10 of [~~for~~] the management area, and proposals to adopt new or amend  
11 existing desired future conditions. In reviewing the management  
12 plans, the districts shall consider:

13 (1) the goals of each management plan and its impact on  
14 planning throughout the management area;

15 (2) the effectiveness of the measures established by  
16 each management plan for conserving and protecting groundwater and  
17 preventing waste, and the effectiveness of these measures in the  
18 management area generally;

19 (3) any other matters that the boards consider  
20 relevant to the protection and conservation of groundwater and the  
21 prevention of waste in the management area; and

22 (4) the degree to which each management plan achieves  
23 the desired future conditions established during the joint planning  
24 process.

25 (d) Not later than September 1, 2010, and every five years  
26 thereafter, the districts shall consider groundwater availability  
27 models and other data or information for the management area and

1 shall propose for adoption [~~establish~~] desired future conditions  
2 for the relevant aquifers within the management area. Before  
3 voting on the proposed [~~In establishing the~~] desired future  
4 conditions of the aquifers under Subsection (d-2) [~~this section~~],  
5 the districts shall consider:

6 (1) aquifer uses or conditions within the management  
7 area, including conditions that differ substantially from one  
8 geographic area to another;

9 (2) the water supply needs and water management  
10 strategies included in the state water plan;

11 (3) hydrological conditions, including for each  
12 aquifer in the management area the total estimated recoverable  
13 storage as provided by the executive administrator, and the average  
14 annual recharge, inflows, and discharge;

15 (4) other environmental impacts, including impacts on  
16 spring flow and other interactions between groundwater and surface  
17 water;

18 (5) the impact on subsidence;

19 (6) socioeconomic impacts reasonably expected to  
20 occur;

21 (7) the impact on the interests and rights in private  
22 property, including ownership and the rights of management area  
23 landowners and their lessees and assigns in groundwater as  
24 recognized under Section 36.002;

25 (8) whether the desired future conditions are  
26 physically possible; and

27 (9) any other information relevant to the specific

1 desired future conditions [~~uses or conditions of an aquifer within~~  
2 ~~the management area that differ substantially from one geographic~~  
3 ~~area to another~~].

4 (d-1) The districts may establish different desired future  
5 conditions for:

6 (1) each aquifer, subdivision of an aquifer, or  
7 geologic strata located in whole or in part within the boundaries of  
8 the management area; or

9 (2) each geographic area overlying an aquifer in whole  
10 or in part or subdivision of an aquifer within the boundaries of the  
11 management area.

12 (d-2) [~~(d-1)~~] The desired future conditions proposed  
13 [~~established~~] under Subsection (d) must be approved [~~adopted~~] by a  
14 two-thirds vote of all the district representatives for  
15 distribution to the districts in the management area. A 30-day  
16 period for public comments begins on the day the proposed desired  
17 future conditions are mailed to the districts. During the public  
18 comment period and after posting notice as required by Section  
19 36.063, each district shall hold a public hearing on the proposed  
20 desired future conditions relevant to that district. During the  
21 public comment period, the district shall make available in its  
22 office a copy of the proposed desired future conditions and any  
23 supporting materials, such as the documentation of factors  
24 considered under Subsection (d) and groundwater availability model  
25 run results. After the public hearing, the district shall prepare  
26 for consideration at the next joint planning meeting a district  
27 report that includes comments received, suggested revisions to the

1 proposed desired future conditions, and the basis for the revisions  
2 ~~[present at a meeting:~~

3 ~~[(1) at which at least two-thirds of the districts~~  
4 ~~located in whole or in part in the management area have a voting~~  
5 ~~representative in attendance, and~~

6 ~~[(2) for which all districts located in whole or in~~  
7 ~~part in the management area provide public notice in accordance~~  
8 ~~with Chapter 551, Government Code.~~

9 ~~[(d-2) Each district in the management area shall ensure~~  
10 ~~that its management plan contains goals and objectives consistent~~  
11 ~~with achieving the desired future conditions of the relevant~~  
12 ~~aquifers as adopted during the joint planning process].~~

13     (d-3) After the districts have submitted their district  
14 reports under Subsection (d-2), the district representatives shall  
15 reconvene to review the reports, consider any district's suggested  
16 revisions to the proposed desired future conditions, and finally  
17 adopt the desired future conditions for the management area. The  
18 desired future conditions must be adopted as a resolution by a  
19 two-thirds vote of all the district representatives. The district  
20 representatives shall produce a desired future conditions  
21 explanatory report for the management area and submit to the  
22 development board and each district in the management area proof  
23 that notice was posted for the adoption meeting, a copy of the  
24 resolution, and a copy of the explanatory report. The report must:

25     (1) identify each desired future condition;

26     (2) provide the policy and technical justifications  
27 for each desired future condition;

1           (3) include documentation that the factors under  
2 Subsection (d) were considered by the districts and a discussion of  
3 how the adopted desired future conditions impact each factor;

4           (4) list other desired future condition options  
5 considered and the reasons why those options were not adopted; and

6           (5) discuss reasons why recommendations made by  
7 advisory committees and public comments received by the districts  
8 were or were not incorporated into the desired future conditions.

9           (d-4) As soon as possible after a district receives the  
10 desired future conditions resolution and explanatory report under  
11 Subsection (d-3), the district by rule shall adopt the desired  
12 future conditions in the resolution and report that apply to the  
13 district.

14           (d-5) A district's adoption of a desired future condition  
15 may be appealed in district court in the manner provided under  
16 Subchapter H for a challenge to a district rule.

17           (e) Except as provided by this section, a [A] joint meeting  
18 under this section must be held in accordance with Chapter 551,  
19 Government Code. Each district shall comply with Chapter 552,  
20 Government Code. Each district in the management area shall post  
21 uniform notice [Notice] of the meeting [shall be given] in  
22 accordance with Section 36.063 [the requirements for notice of  
23 district board of directors meetings under that Act].

24           Sec. 36.1081. TECHNICAL STAFF AND SUBCOMMITTEES FOR JOINT  
25 PLANNING. (a) On request, the commission and the Texas Water  
26 Development Board shall make technical staff available to serve in  
27 a nonvoting advisory capacity to assist with the development of

1 desired future conditions during the joint planning process under  
2 Section 36.108.

3 (b) During the joint planning process under Section 36.108,  
4 the district representatives may appoint and convene nonvoting  
5 advisory subcommittees who represent social, governmental,  
6 environmental, or economic interests to assist in the development  
7 of desired future conditions.

8 Sec. 36.1082. PETITION FOR INQUIRY. (a) In this section,  
9 "affected person" means, with respect to a management area:

- 10 (1) an owner of land in the management area;  
11 (2) a district in or adjacent to the management area;  
12 (3) a regional water planning group with a water  
13 management strategy in the management area;  
14 (4) a person who holds or is applying for a permit from  
15 a district in the management area;  
16 (5) a person who has groundwater rights in the  
17 management area; or  
18 (6) any other person defined as affected by commission  
19 rule.

20 (b) An affected person [~~(f) A district or person with a~~  
21 ~~legally defined interest in the groundwater within the management~~  
22 ~~area] may file a petition with the commission requesting an inquiry  
23 for any of the following reasons:~~

- 24 (1) a district fails to submit its management plan to  
25 the executive administrator;  
26 (2) [if] a district fails [~~or districts refused]~~ to  
27 participate [~~join~~] in the joint planning process under Section

1 36.108;

2 (3) a district fails to adopt rules;

3 (4) a district fails to adopt the applicable desired  
4 future conditions adopted by the management area at a joint  
5 meeting;

6 (5) a district fails to update its management plan  
7 before the second anniversary of the adoption of desired future  
8 conditions by the management area;

9 (6) a district fails to update its rules to implement  
10 the applicable desired future conditions before the first  
11 anniversary of the date it updated its management plan with the  
12 adopted desired future conditions;

13 ~~(7) [or the process failed to result in adequate~~  
14 ~~planning, including the establishment of reasonable future desired~~  
15 ~~conditions of the aquifers, and the petition provides evidence~~  
16 ~~that:~~

17 ~~[(1) a district in the groundwater management area has~~  
18 ~~failed to adopt rules;~~

19 ~~[(2)] the rules adopted by a district are not designed~~  
20 ~~to achieve the desired future conditions adopted by [condition of~~  
21 ~~the groundwater resources in] the [groundwater] management area~~  
22 ~~[established] during the joint planning process;~~

23 (8) [(3)] the groundwater in the management area is  
24 not adequately protected by the rules adopted by a district; or

25 (9) [(4)] the groundwater in the [groundwater]  
26 management area is not adequately protected due to the failure of a  
27 district to enforce substantial compliance with its rules.

1           (c) [~~(g)~~] Not later than the 90th day after the date the  
2 petition is filed, the commission shall review the petition and  
3 either:

4                   (1) dismiss the petition if the commission finds that  
5 the evidence is not adequate to show that any of the conditions  
6 alleged in the petition exist; or

7                   (2) select a review panel as provided in Subsection  
8 (d) [~~(h)~~].

9           (d) [~~(h)~~] If the petition is not dismissed under Subsection  
10 (c) [~~(g)~~], the commission shall appoint a review panel consisting  
11 of a chairman and four other members. A director or general manager  
12 of a district located outside the [~~groundwater~~] management area  
13 that is the subject of the petition may be appointed to the review  
14 panel. The commission may not appoint more than two members of the  
15 review panel from any one district. The commission also shall  
16 appoint a disinterested person to serve as a nonvoting recording  
17 secretary for the review panel. The recording secretary may be an  
18 employee of the commission. The recording secretary shall record  
19 and document the proceedings of the panel.

20           (e) [~~(i)~~] Not later than the 120th day after appointment,  
21 the review panel shall review the petition and any evidence  
22 relevant to the petition and, in a public meeting, consider and  
23 adopt a report to be submitted to the commission. The commission  
24 may direct the review panel to conduct public hearings at a location  
25 in the [~~groundwater~~] management area to take evidence on the  
26 petition. The review panel may attempt to negotiate a settlement or  
27 resolve the dispute by any lawful means.

1        (f) [~~(j)~~] In its report, the review panel shall include:

2            (1) a summary of all evidence taken in any hearing on  
3 the petition;

4            (2) a list of findings and recommended actions  
5 appropriate for the commission to take and the reasons it finds  
6 those actions appropriate; and

7            (3) any other information the panel considers  
8 appropriate.

9        (g) [~~(k)~~] The review panel shall submit its report to the  
10 commission. The commission may take action under Section 36.3011.

11        Sec. 36.1083. MANAGED AVAILABLE GROUNDWATER. The Texas  
12 Water Development Board shall require the [~~(l)~~] ~~A person with a~~  
13 ~~legally defined interest in the groundwater in the groundwater~~  
14 ~~management area, a district in or adjacent to the groundwater~~  
15 ~~management area, or a regional water planning group for a region in~~  
16 ~~the groundwater management area may file a petition with the~~  
17 ~~development board appealing the approval of the desired future~~  
18 ~~conditions of the groundwater resources established under this~~  
19 ~~section. The petition must provide evidence that the districts did~~  
20 ~~not establish a reasonable desired future condition of the~~  
21 ~~groundwater resources in the groundwater management area.~~

22        [~~(m)~~] ~~The development board shall review the petition and any~~  
23 ~~evidence relevant to the petition. The development board shall~~  
24 ~~hold at least one hearing at a central location in the management~~  
25 ~~area to take testimony on the petition. The development board may~~  
26 ~~delegate responsibility for a hearing to the executive~~  
27 ~~administrator or to a person designated by the executive~~

1 ~~administrator. If the development board finds that the conditions~~  
2 ~~require revision, the development board shall submit a report to~~  
3 ~~the districts that includes a list of findings and recommended~~  
4 ~~revisions to the desired future conditions of the groundwater~~  
5 ~~resources.~~

6 ~~[(n) The districts shall prepare a revised plan in~~  
7 ~~accordance with development board recommendations and hold, after~~  
8 ~~notice, at least one public hearing at a central location in the~~  
9 ~~groundwater management area. After consideration of all public and~~  
10 ~~development board comments, the districts shall revise the~~  
11 ~~conditions and submit the conditions to the development board for~~  
12 ~~review.~~

13 ~~[(e) The]~~ districts in a management area to ~~[shall]~~ submit  
14 the desired future conditions resolution adopted ~~[established]~~  
15 under Section 36.108, proof that notice was posted for the adoption  
16 meeting, and the desired future conditions explanatory report ~~[this~~  
17 ~~section]~~ to the executive administrator. The executive  
18 administrator shall provide each district and regional water  
19 planning group located wholly or partly in the management area with  
20 the managed available groundwater in the management area based upon  
21 those ~~[the]~~ desired future conditions ~~[condition of the groundwater~~  
22 ~~resources established under this section]~~.

23 Sec. 36.1084. MANAGEMENT PLAN GOALS AND OBJECTIVES. Each  
24 district in the management area shall ensure that its management  
25 plan contains goals and objectives consistent with achieving the  
26 desired future conditions of the relevant aquifers as adopted  
27 during the joint planning process.

1        Sec. 36.1085. JOINT EFFORTS BY DISTRICTS IN A MANAGEMENT

2 AREA.    [~~p~~] Districts located within the same [~~groundwater~~]  
3 management areas or in adjacent management areas may contract to  
4 jointly conduct studies or research, or to construct projects,  
5 under terms and conditions that the districts consider beneficial.  
6 These joint efforts may include studies of groundwater availability  
7 and quality, aquifer modeling, and the interaction of groundwater  
8 and surface water; educational programs; the purchase and sharing  
9 of equipment; and the implementation of projects to make  
10 groundwater available, including aquifer recharge, brush control,  
11 weather modification, desalination, regionalization, and treatment  
12 or conveyance facilities. The districts may contract under their  
13 existing authorizations including those of Chapter 791, Government  
14 Code, if their contracting authority is not limited by Sections  
15 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

16        SECTION 18. Section 36.3011, Water Code, is amended to read  
17 as follows:

18        Sec. 36.3011. COMMISSION ACTION REGARDING [~~FAILURE OF~~]  
19 DISTRICT DUTIES [~~TO CONDUCT JOINT PLANNING~~]. Not later than the  
20 45th day after receiving the review panel's report under Section  
21 36.1082 [~~36.108~~], the executive director or the commission shall  
22 take action to implement any or all of the panel's recommendations.  
23 The commission may take any action against a district it considers  
24 necessary in accordance with Section 36.303 if the commission finds  
25 that:

26            (1) the [~~a~~] district has failed to submit its  
27 management plan to the executive administrator;

1           (2) the district has failed to participate in the  
2 joint planning process under Section 36.108;

3           (3) the [a] district has failed to adopt rules;

4           (4) the district has failed to adopt the applicable  
5 desired future conditions adopted by the management area at a joint  
6 meeting;

7           (5) the district has failed to update its management  
8 plan before the second anniversary of the adoption of desired  
9 future conditions by the management area;

10          (6) the district has failed to update its rules to  
11 implement the applicable desired future conditions before the first  
12 anniversary of the date it updated its management plan with the  
13 adopted desired future conditions;

14          (7) [(-3)] the rules adopted by the district are not  
15 designed to achieve the desired future conditions adopted by  
16 [condition of the groundwater resources in] the [groundwater]  
17 management area during the joint planning process; [or]

18          (8) [(-4)] the groundwater in the management area is  
19 not adequately protected by the rules adopted by the district; [7]  
20 or

21          (9) the groundwater in the management area is not  
22 adequately protected because of the district's failure to enforce  
23 substantial compliance with its rules.

24          SECTION 19. Sections 15.908 and 17.180, Water Code, are  
25 repealed.

26          SECTION 20. As soon as practicable after the effective date  
27 of this Act, groundwater conservation districts shall appoint

1 initial representatives to regional water planning groups as  
2 required by Subsection (c), Section 16.053, Water Code, as amended  
3 by this Act.

4 SECTION 21. Not later than January 1, 2013:

5 (1) the Texas Commission on Environmental Quality  
6 shall adopt rules under Subsection (f), Section 11.1271, Water  
7 Code, as amended by this Act;

8 (2) the Texas Water Development Board and the Texas  
9 Commission on Environmental Quality jointly shall adopt rules under  
10 Subsection (e), Section 16.402, Water Code, as amended by this Act;  
11 and

12 (3) the Texas Water Development Board and the Texas  
13 Commission on Environmental Quality, in consultation with the Water  
14 Conservation Advisory Council, shall develop the water use  
15 calculation system required by Section 16.403, Water Code, as added  
16 by this Act.

17 SECTION 22. The notice provisions of Subsections (b) and  
18 (c), Section 36.063, Water Code, as added by this Act, apply only to  
19 a meeting or hearing of a groundwater conservation district or a  
20 joint planning meeting of groundwater conservation districts held  
21 on or after the effective date of this Act. A meeting or hearing  
22 held before the effective date of this Act is subject to the notice  
23 provisions in effect at the time of the meeting or hearing, and  
24 those provisions are continued in effect for that purpose.

25 SECTION 23. The requirement that a groundwater conservation  
26 district's management plan under Subsection (e), Section 36.1071,  
27 Water Code, as amended by this Act, include the desired future

1 conditions adopted under Section 36.108, Water Code, as amended by  
2 this Act, for submission to the executive administrator of the  
3 Texas Water Development Board before the plan is considered  
4 administratively complete applies only to a district management  
5 plan submitted to the executive administrator on or after the  
6 effective date of this Act. A management plan submitted before the  
7 effective date of this Act is governed by the law in effect on the  
8 date the plan was submitted, and that law is continued in effect for  
9 that purpose.

10 SECTION 24. The procedures for the adoption and reporting  
11 of desired future conditions of groundwater resources in a  
12 management area under Section 36.108, Water Code, as amended by  
13 this Act, and 36.1083, Water Code, as added by this Act, apply only  
14 to the adoption of desired future conditions that occurs on or after  
15 the effective date of this Act. Desired future conditions adopted  
16 before the effective date of this Act are governed by the law in  
17 effect on the date the desired future conditions were adopted, and  
18 that law is continued in effect for that purpose.

19 SECTION 25. A petition filed and pending on the effective  
20 date of this Act before the Texas Water Development Board to appeal  
21 the adoption of desired future conditions by a groundwater  
22 management area under former Subsection (l), Section 36.108, Water  
23 Code, shall be handled by the Texas Water Development Board in  
24 compliance with Subsections (l), (m), and (n), Section 36.108,  
25 Water Code, as those subsections existed before the effective date  
26 of this Act.

27 SECTION 26. This Act takes effect September 1, 2011.